

From: Moore, Tamra (CIV) Tamra.Moore@usdoj.gov
Subject: RE: Interim Release from OSD in 18-cv-1129 (D.D.C.)

Date: May 14, 2019 at 3:26 PM

To: Jacob Karr jacob.karr@knightcolumbia.org

Cc: Alexander A Abdo alex.abdo@knightcolumbia.org, Ramya Krishnan ramya.krishnan@knightcolumbia.org, Brett Max Kaufman bkaufman@aclu.org, Vera Eidelman veidelman@aclu.org, Naomi Gilens ngilens@aclu.org

TM

Jake,

Here is DOD's response to the questions posed below -- please let me know whether you have any questions:

1. For the final production, there were 75 pages of potentially responsive material. The 7 pages I sent were the correspondence denying the publication request, the appeal, and the response. I removed the 48 pages that were the publication that was denied, pursuant to the agreement that we could exclude such material, particularly as DoD didn't clear it for release. The 8 of the remaining pages included 7 pages that were DoD Directive 5230.09 and an email to the requester attaching the final response letter, which I considered non-responsive, but happy to provide if they wish. The other 12 pages were edits to drafts of the final letters, internal tracking sheets, and other input into those letters. I considered them non-responsive, but they are otherwise withheld under exemption 5.

2. The production was only for the last year, which at the time of the search was August 2017 through August 2018.

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-----Original Message-----

From: Jacob Karr <jacob.karr@knightcolumbia.org>

Sent: Wednesday, May 01, 2019 10:42 AM

To: Moore, Tamra (CIV) <tammoore@CIV.USDOJ.GOV>

Cc: Alexander A Abdo <alex.abdo@knightcolumbia.org>; Ramya Krishnan <ramya.krishnan@knightcolumbia.org>; Brett Max Kaufman <bkaufman@aclu.org>; Vera Eidelman <veidelman@aclu.org>; Naomi Gilens <ngilens@aclu.org>

Subject: FW: Interim Release from OSD in 18-cv-1129 (D.D.C.)

Hi Tamra,

We have a couple of follow-up questions related to DOD's final production.

First, could you confirm how many records and pages have been withheld (and pursuant to which exemptions) for this final production?

Second, we would also like to confirm the scope of DOD's searches and processing for Request 2, Item 2, which sought records relating to administrative appeals. In response to DOD's request for a timeframe for that item, we proposed, by e-mail dated August 31, 2018, that DOD "process the last year of responsive records for now, subject to our right to ask the agency to process records for additional years." Since we did not receive a response to this proposal, however, we would like to confirm whether or not DOD's interim and final productions reflect its processing only of the last year of records responsive to Item 2, or additional years as well.

Finally, we'd like to clarify that while we haven't yet consented to the exclusion of draft manuscripts for any agency other than NSA, we do not object to the exclusion by DOD of the specific manuscript mentioned in the e-mail below.

Regards,

Jake

On 4/30/19, 11:44 AM, "Herrington, Mark H CIV OSD OGC (USA)" <mark.h.herrington2.civ@mail.mil> wrote:

Please find the final release from OSD/JS attached. I am not providing the referenced manuscript, as it was not cleared for public release, and I understand that you had agreed to exclude the prepub submissions from processing.

I'm also attaching 4 pages referred from DOJ to DoD in this litigation

I'm also attaching 4 pages referred from DOD to DOD in this litigation.

Please contact Tamra Moore with any questions.

Sincerely,

Mark

-----Original Message-----

From: Herrington, Mark H CIV OSD OGC (USA)

Sent: Thursday, February 28, 2019 12:17 PM

To: ramya.krishnan@knightcolumbia.org; jacob.karr@knightcolumbia.org

Cc: Moore, Tamra (CIV) <Tamra.Moore@usdoj.gov>

Subject: Interim Release from OSD in 18-cv-1129 (D.D.C.)

I will be sending an interim release of 165 pages of records responsive to your request today via AMRDEC Safe, a file transfer website. You will receive an email with a link and a password to download the records.

Portions of the material have been withheld pursuant to exemption 1, as currently and properly classified under Executive Order 12958, and exemption 6, to avoid a clearly unwarranted invasion of personal privacy.

Additionally, approximately 775 pages of records are withheld in full pursuant to exemption 5. These records are of active appeals that have not yet been decided and are thus deliberative process privileged.

We are still processing an additional 75 pages and working to provide a final response for those pages by the end of March.

Please contact Tamra Moore with any questions.

Sincerely,

Mark Herrington

Associate Deputy General Counsel (Litigation Counsel)

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